IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2159 OF 2007

Shrimant Madhavrao Chintamanrao
Patwardhan Trust ...Petitioner
vs.
Gurudas Padmanabh Shanbag & ors. ...Respondents

Mr.Anilkumar K. Patil for the Petitioner
Mr.S.G.Deshmukh for the respondents.

CORAM: A.S.OKA,J.
DATE : APRIL 3,2007.

P.C.:

1. Heard learned Advocate for the Petitioner and the Advocate for the first Respondent. The challenge in this Petition under Article 227 of Constitution of India is to the order dated 21st February 2007 passed by the Joint Charity Commissioner, Kolhapur by which the Application at Exh.38 filed by the Petitioner has been rejected. By the said application at Exh.38, a prayer was made for issuing witness summons to an Advocate for production of documents as well as for giving evidence on oath. The said application at Exh.38 was filed as the first Respondent filed an Application at exh.32 for production of certain documents and the said Application was allowed by the learned Joint Charity Commissioner. The submission is that in view of the permission granted to the first Respondent to file documents produced along with the Exh.32, the examination of the said Advocate has become very necessary.

2. Shri Deshmukh for the first Respondent on instructions of the first Respondent states that the said Respondent does not

desire to produce the documents which were produced along with the Application at Exh.32 and he wants to produce the said documents at appropriate stage in appropriate proceedings. He, therefore, states that the first Respondent may be permitted to withdraw the said Application at Exh.32.

3. The request made by the Advocate for the first Respondent is reasonable. The first Respondent is permitted to withdraw the Application at Exh.32. Therefore, the order passed on Application at Exh.32 has become inoperative and the documents which are produced along with a separate list together with the Application at Exh.32 cannot be considered by the learned Joint Charity Commissioner. In view of this position, it is obvious that the Application at Exh.38 filed by the Petitioner does not survive and therefore, it is not necessary to interfere with the impugned order.

4. Another grievance was made by the Advocate for the Petitioner that the application made by the Petitioner at Exh.25 is not being decided. If the said application is pending, the learned Joint Charity Commissioner will decide the same expeditiously. If the hearing of final arguments in Appeal is already commenced, the learned Joint Charity Commissioner will decide the said application along with the Appeal.

5. Subject to what is stated above, Writ Petition is disposed

of.

JUDGE